

**SENATE JOURNAL  
63RD LEGISLATURE  
SIXTH LEGISLATIVE DAY**

Helena, Montana  
January 14, 2013

Senate Chambers  
State Capitol

Senate convened at 1.00 p.m. President Essmann presiding. Invocation by Father Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senator Priest, excused. Quorum present.

**BILLS AND JOURNALS** (Buttrey, Chair):

1/14/2013

Correctly printed: **SB 46, SB 47.**

Senator Wittich moved the Senate recess and proceed to the House of Representatives for a joint session for the purpose of hearing an address from U.S. Senator Jon Tester. Motion carried.

After the Senate was announced in the House Chambers, President Essmann assumed the chair.

Majority Leader Wittich moved the Senate and House of Representatives resolve into a joint session for the purpose of receiving an address from U.S. Senator Jon Tester. Motion carried.

President Essmann appointed a committee comprised of Senators Augare and Lewis, and Representatives Swanson and Zolnikov and charged the committee to accompany Senator Tester into the chambers.

President Essmann introduced Senator Tester to the joint session, and the Senator gave the following speech:

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President Essmann, Speaker Blasdel, Senator Sesso, Representative Hunter: To the members serving in "The People's House," to the members coming over from "The Upper House," and to all of the guests of this chamber, and to all of the people of Montana watching on TV: Thank you for having me share a few words.

I also want to welcome the newly minted legislators serving in Montana's 64th legislative assembly. Thank you for your willingness to serve the people of Montana. You now have the opportunity to work with your neighbors from throughout Montana - as citizen legislators to make Montana a better place.

I'd like to ask all veterans here today to please stand.

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Ladies and gentlemen, the Montanans standing are true public servants whose service we will never forget. Please join me in saying thanks, with our applause. Now it is our turn to do our part, at the state level and at the federal level. We made a promise to Montana's 103,000 veterans to live up to the standard of quality health care to address injuries seen and unseen - no matter where they live.

In that vein, I want to say thank you to all who worked so hard to get Montana's share of matching dollars for the Southwestern Montana Veterans' Home. We have more work to do at the federal level to make this project come to fruition I would ask you to make sure that spending authority remains at the state level. We owe it to all veterans to make it easier for military experience to count here at home to find meaningful work in the private sector.

Regarding high unemployment among our veterans, we need to do better passing policies like "The Vow to Hire Heroes Act." At the federal level or others - in the end - there are no excuses.

Regarding high rates of suicide among our veterans, whether it's working to reduce the backlog at the VA for those veterans eligible to receive benefits, or working to get more mental healthcare professionals into the field - in the end - there are no excuses.

Members of the legislature, we share a tremendous honor - a tremendous responsibility - in public service.

Montana's Citizen Legislature is the best model, when it comes to the way things are supposed to work in government. I fell in love with Montana's legislative process the first day I arrived here. And it continues to be my second love. Don't worry. My wife Sharla will always be my first love.

As ordinary citizens you have the special experience to come together in Helena and work together over the next few months to pass policies that hopefully will make Montana a better place for us and our kids and grandkids.

Then at the end of 90 days - or less - you go back home to live and work - along with a million other Montanans - subject to those policies that you created as citizen legislators during this legislative session.

Montanans are depending on you to use your common sense and your ability to have a respectful dialogue, agreeing to disagree without being disagreeable. Folks like seniors, students and teachers, veterans, Native Americans, hunters, hikers and anglers, moms and dads, small business owners. Farmers and ranchers, working families, firefighters, police and first responders.

They're relying on you to do your best-not as Republicans or Democrats or Libertarians-but as Montanans. They are trusting you and your decisions about small business. Education. Agriculture. Health care. Social justice. Criminal justice. Sports opportunities. Responsible energy development.

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Your decisions should be based on your life experiences along with the input of our neighbors, underpinned by a personal commitment to work together.

A citizen legislature works-as long as you make it work. As long as folks from Sidney and Glendive are willing to work together with folks from Butte and Missoula.

As long as citizenship comes before partisanship. As long as policies are not shaped by politics, but rather common sense and good ideas. I want to say that again: A citizen legislature works as long as policies are not shaped by politics, but rather by common sense and good ideas to move Montana forward.

The founders of our country had a citizen legislature in mind for the U.S. Congress. Most of them made a living in agriculture. They worked around calving, spring planting and harvest. I believe in the value of a citizen legislature so much, it's the reason Sharla and I still operate our farm outside Big Sandy. That perspective is too important for me to ever lose sight of.

A few weeks ago, I had the honor of playing Taps at the funeral of a good friend of mine named Daniel Inouye. Senator Inouye was an American hero. He was one of the millions who served this nation as part of the "Greatest Generation."

In World War Two, Danny Inouye lost his right arm during a bloody attack in Italy. Even after he was shot in the stomach and then got his arm blown off, he kept on fighting to protect America's freedom. After the War, he was elected to the U.S. House of Representatives, serving the new state of Hawaii. A few years later, he became senator. And as my luck would have it, my office in Washington was right next to his.

Senator Inouye taught me many things. But maybe the most significant was his commitment to this country through public service. Whether it be on the battlefield or in Congress, public service is important and oftentimes not easy.

Whether you're a Hawaiian war hero or a Montana dirt farmer - whether you're a Missoula businesswoman or a Wilsall rancher - you have the power to create a better place for all of us - and for our kids and grandkids.

After all, that's why all of us are in public service: to work together to create a better place for future generations.

Our new governor shares that desire. Seeing pictures of Steve and Lisa and their children last week as Steve took his oath - was a strong reminder of the commitment to secure opportunity for future generations. To create jobs. To protect our way of life.

When it comes to responsible decisions to pass a budget that puts Montana first and keeps a surplus in the bank - you have a partner in Steve Bullock. When it comes to responsibly creating jobs and investing in education and developing energy - you have a partner. When it comes to an environment that will grow Montana's small businesses - and keeping Montana's

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credit rating high - an environment that rewards people and businesses that work hard and live by the rules - you have a partner in Governor Bullock.

Montana's economic future is full of potential, and it's going to take responsible public service to drive that potential home. With your leadership, Montana will be a place where new businesses grow. Where growing businesses will grow even more.

Over the past four years, I put together 12 Small Business Opportunity Workshops. Each of them focused on connecting businesses to each other. And building new opportunities to create jobs and expand.

Last year, I teamed up with a Republican from Pennsylvania named Pat Toomey to pass legislation making it easier for startup companies to raise capital. Our bill is now the law of the land. And it's going to work for Montana, making investment dollars more available to allow businesses to expand and create more good paying jobs here in Montana.

The demand for better access to capital is growing. The credit market is easing up.

Cutting-edge high-tech companies like Microbion in Bozeman, and Rivertop Renewables in Missoula know that Montana is a perfect place to create and grow a business.

Why? Because Montana is still seen as a place that has clean water and clean air.

Because Montana has incredible outdoor opportunity due in part to our incredible public lands. Because Montana has a great work ethic combined with a higher education program that works with business and produces a well-trained workforce. Because Montana's K-12 public schools offer a great education. And because of the good work done by Governor Schweitzer and previous legislatures, Montana's books are in order. And other companies are taking notice.

In Butte, SeaCast is expanding with the promise of new jobs. We all see the growth - and the challenges and opportunities that come with it - in the Bakken.

My message to you is this: The things I just listed attract business. And yes, they come with a monetary cost. But if we do not make the investment, we will not be able to collect the profit.

Uncertainty will set us back. Irresponsible policies will put us on the wrong track. Focusing on issues that divide us will only send a message that creating Montana jobs is not a priority.

The election is over. And now as legislators - as Montana leaders - you have the opportunity to be advocates for Montana. Be advocates. Work together. Don't focus on division and distraction. Rather focus on those ideas that move Montana forward.

If anyone needs a reminder about our responsibility to work together, it's Washington, D.C.

You saw Congress - yet again - flirt with disaster right up until the play clock ran out on New Year's Eve. You saw both sides of the aisle draw lines in the sand, because they insist on

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idealism. Not realism. You saw our entire American economy on the brink of the cliff. On the brink simply because a handful of people refused to work together.

In Washington and in Helena, we can't afford to let brinksmanship replace statesmanship. Remember, history is written by statesmen and women, not those who stand in the way.

The fiscal problems that face our country at the federal level can and must be addressed. It is our biggest challenge. Cutting spending and increasing revenue will be necessary if we are to solve our budgetary woes.

When it comes to spending, every program needs to be on the table - every program. When it comes to revenue, one only needs to look as far as the Simpson/Bowles Commission plan to see how screwed up our tax code has become. According to that commission, tax earmarks cost us \$1.1 trillion. We can do better than that.

But we will not solve this country's fiscal challenges by taking an unbending pledge to any political party or political group.

It will be solved by taking responsibility together, by governing together to build a big, long-term, bipartisan solution that truly cuts debt and spending. That will give us a solution that will address our tax code for the long haul-to protect working families-and Montana's small businesses and family farms and ranches.

On a side note what Congress did on New Year's Eve and New Year's Day to avoid this month's "Fiscal Cliff" was better than nothing - but not much. Montanans have told me over the past few years that they're willing to pitch in and - just like Senator Inouye's greatest generation - make some sacrifices to get this nation on the right track.

I look forward to working with Max and Congressman Daines - working together to get the tax code fixed and to get our fiscal house in order. As I said earlier, this is our country's biggest challenge and this is Congress's biggest challenge.

Speaking of Congressman Daines, I have had the privilege of meeting him, his wife and his family. He is someone I appreciate. And I look forward to working with him on issues important to this country and Montana.

Of course, there are other priorities too.

Many of us are still looking back on what was a record-breaking election. Outside groups - on both sides - spent tens of millions of dollars with little transparency and no accountability.

This is not the way we do business in Montana. Montanans sent a loud-and-clear message to all of us serving in public office: Corporations are not people. And only people and their ideas - not corporations and their money - decide our elections.

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By a three-to-one margin, Montanans passed a constitutional initiative requiring Senator Baucus, Congressman Daines and me to work on this at the national level. That's why I support overturning the Citizens United decision. Like most Montanans, I see that ruling as a kick-in-the-teeth to our Democracy.

In Montana, that ruling upended our 100-year old state law keeping corporations out of elections. It opened the floodgates to more TV commercials than we've ever seen before. In fact in this past Senate election, more Senate commercials were on TV in Montana than any other senate race in the country - ever.

In many cases, these ads were funded by secret, out-of-state money whose origins we may never know. That's why we must put a premium on transparency and accountability, just as we've always done in Montana.

In the Senate, I support requiring disclosure of all major campaign expenses - from corporations and unions. Remarkably, it didn't get the 60 votes needed to move forward. All Americans deserve better.

I hope there will be bills here in Helena addressing this issue over the next 83 days. Remember that transparency and accountability and disclosure always have - and always will - run deep in Montana.

Then there's health care.

Whether you love it or hate it - and I love some of it and hate some of it - it's now your responsibility to decide this state's role in putting health care reform to work. There was an opportunity last session for the state of Montana to set up a healthcare exchange to help make insurance more affordable over the long haul.

That opportunity was missed, and now the federal government will do it for Montana. I would have preferred the former.

There will be other ways Montana can put its fingerprint on more affordable health care this session. I encourage you all to do your best in achieving this goal to not only make healthcare more affordable but in that process improve our economy.

Montana is one of only two states that has no authority to review health insurance rates to make sure that they are fair for consumers. Commissioner Monica Lindeen wants to change that, to protect us consumers from high insurance costs. She knows that the federal government has no business taking over insurance regulation. Many of us couldn't agree more.

We have huge infrastructure investment needs across this state. I'm talking about physical infrastructure, like roads and bridges, water and sewer systems, schools, hospitals and broadband. Sound infrastructure is an important piece of a strong economy.

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With energy development booming, we have a responsibility to embrace all energy resources, and to provide the infrastructure needed to bring them to their fullest potential. In Eastern Montana where the Bakken Boom has hit, the infrastructure needs in that area are critical. Solving those infrastructure challenges for the long term will be important.

Investing in our human infrastructure means a tax code that rewards businesses big and small for creating jobs here at home. It means investing in our kids and their teachers, not only at the K-12 level, but also at the higher ed level.

Our kids are Montana's most precious resource and our most valuable asset. A well-trained workforce and a new crop of entrepreneurs every year positions the private sector for success.

And I join most Montanans in supporting Superintendent Denise Juneau's bold vision for better education at all levels in this state. We'll need your guidance as Congress hopefully says goodbye to "No Child Left Behind" and "Race To the Top," and reforms the Elementary and Secondary Education Act. As we bring Montana classrooms into the 21st Century with new technology. As we level the playing field as Montana schools implement a common core of education standards. As we push to let local districts - not federal bureaucrats - decide what goes in school lunches.

There are a lot of decisions for you to make over the next 83 days. A lot of meetings and hearings. A lot of public input. There will be a lot of debate and hopefully compromise too.

I want to share some powerful words from another great veteran. Senator Mike Mansfield once reminded us that there are two sides to every issue. "Sometimes the other side is right," he said. "It doesn't do any harm to listen." Mike Mansfield was a man of few words, and they were words to live by.

No one person has all the answers. But all of you together do have the answers. And working together, you'll find them. It's not just a challenge. It's a responsibility. It's an opportunity to prove that citizenship must come before partisanship. It's an opportunity to prove that public service is self-sacrifice.

When my grandparents homesteaded near Big Sandy a hundred years ago, they were part of a community of pioneers. With their neighbors, they built barns, community halls, churches, even homes together. They built the hospital in Big Sandy - together.

Nobody asked what party they belonged to before the work started. They just got it done because it made life better for them their families and their neighbors. Needless to say, in some cases, it was a matter of survival.

And it wasn't just Big Sandy. Communities across Montana were built by folks sacrificing together, working together. The people who were first in Montana - American Indians - lived that value too.

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Generations before us have shown us the way. It is our responsibility to make sure we let no one down. I'm proud to be your partner in that effort. And I stand ready to work with you.

Good luck in the weeks ahead. And God Bless.

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Majority Leader Wittich moved the joint session be adjourned. The motion carried.

Senate reconvened at 1:45 p.m.

**FIRST READING AND COMMITMENT OF BILLS**

The following Senate bills were introduced, read first time, and referred to committees:

- SB 121**, introduced by Fielder, Larsen, F. Moore, Taylor, Thomas, Van Dyk, referred to Judiciary.
- SB 122**, introduced by Facey, referred to State Administration.
- SB 123**, introduced by Van Dyk, Driscoll, Facey, Jent, Kary, F. Moore, Murphy, Peterson, Phillips, Vincent, Welborn, referred to Fish and Game.
- SB 124**, introduced by Malek, Tutvedt, referred to State Administration.
- SB 125**, introduced by Olson, Arthun, Clark, Jackson, L. Jones, Kary, Knudsen, O'Hara, Taylor, Walker, Zolnikov, referred to Energy and Telecommunications.
- SB 126**, introduced by Sesso, Curtis, Keane, Lynch, McClafferty, Noonan, referred to Business, Labor, and Economic Affairs.
- SB 127**, introduced by Buttrey, referred to Business, Labor, and Economic Affairs.
- SB 128**, introduced by Buttrey, referred to Business, Labor, and Economic Affairs.
- SB 129**, introduced by Buttrey, referred to Business, Labor, and Economic Affairs.
- SB 130**, introduced by Murphy, referred to Taxation.
- SB 131**, introduced by Wanzenried, referred to Taxation.
- SB 132**, introduced by Jergeson, referred to Local Government.
- SB 133**, introduced by Rosendale, referred to Judiciary.
- SB 134**, introduced by Brenden, Arthun, Debby Barrett, Boulanger, L. Jones, Keane, Lewis, Olson, Ripley, Rosendale, Thomas, Vincent, Walker, Webb, referred to Judiciary.
- SB 135**, introduced by Wittich, referred to Finance and Claims.
- SB 136**, introduced by Larsen, Buttrey, Caferro, Fielder, Hagan, Hamlett, Keane, McChesney, Olson, Tutvedt, Van Dyk, Vincent, Wittich, referred to Business, Labor, and Economic Affairs.
- SB 137**, introduced by Olson, Regier, referred to Natural Resources.
- SB 138**, introduced by Wittich, referred to Taxation.

The following House bill was introduced, read first time, and referred to committee:

- HB 1**, introduced by Ankney (by request of the Legislative Council), referred to Finance and Claims.

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**SECOND READING OF BILLS  
(COMMITTEE OF THE WHOLE)**

Senator Wittich moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Thomas in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

**SB 46** - Senator Vuckovich moved **SB 46** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Debby Barrett, Dick Barrett, Blewett, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Malek, Murphy, Olson, Peterson, Phillips, Ripley, Sales, Sesso, Sonju, Stewart-Peregoy, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Wanzenried, Windy Boy, Mr. President.

Total 41

Nays: Boulanger, Lewis, Moore, Rosendale, Taylor, Walker, Webb, Wittich.

Total 8

Absent or not voting: None.

Total 0

Excused: Priest.

Total 1

**SB 47** - Senator Keane moved **SB 47** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Debby Barrett, Dick Barrett, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Mr. President.

Total 46

Nays: Fielder, Sales, Wittich.

Total 3

Absent or not voting: None.

Total 0

Excused: Priest.

Total 1

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Senator Wittich moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Essmann in the chair. Chair Thomas moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Arntzen, Arthun, Augare, Debby Barrett, Dick Barrett, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.  
Total 49

Nays: None.  
Total 0

Absent or not voting: None.  
Total 0

Excused: Priest.  
Total 1

**MESSAGES FROM THE OTHER HOUSE**

**House bill** passed and transmitted to the Senate for concurrence: 1/14/2013

**HB 1**, introduced by Ankney.

**SPECIAL ORDERS OF THE DAY**

Senator Taylor introduced the Senate Pages for the week of January 14-18, 2013.

Jennifer Fosjord, Ryegate  
Matthew Meuli, Dayton  
Mikayla Meuli, Dayton

**ANNOUNCEMENTS**

Committee meetings were announced by the committee chairs.

Majority Leader Wittich moved that the Senate adjourn until 1:00 p.m., Tuesday, January 15, 2013. Motion carried.

Senate adjourned at 2:20 p.m.

MARILYN MILLER  
Secretary of the Senate

JEFF ESSMANN  
President of the Senate